

## **REMARKS**

Applicant has carefully reviewed the Final Office Action mailed March 25, 2008 and offers the following remarks.

Applicant wishes to thank the Examiner for indicating that claims 10-16 and 30-36 would be allowable if rewritten in independent form. Applicant reserves the right to rewrite claims 10-16 and 30-36 in independent form to include the limitations of claims 1 and 21, respectively, at a later time.

Claims 1 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0154174 A1 to Tassel et al. (hereinafter "Tassel") in view of U.S. Patent Application Publication No. 2003/0152039 A1 to Roberts (hereinafter "Roberts"). To establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is taught or suggested in the combination of references. MPEP § 2143.03. If the Patent Office cannot establish obviousness, the claims are allowable.

Before addressing the rejection, Applicant provides a brief overview of the present invention. The present invention facilitates efficient metering in a packet network environment by providing a single metering message, which contains sufficient information to provide the complete call tariff model for a particular call. The media gateway receiving the message can analyze the information provided in the message to determine how to provide metering pulses for all phases of the call, as well as any one-time charges, such as setup and add-on charges. The setup charges are associated with initiating the call and the add-on charges are other charges related to activating features during the call.

In contrast, the cited references are directed to solving a different problem in a different manner. Tassel is directed to a method of billing for a confederated network such as the Internet, based upon the amount of data transferred (Tassel, Abstract and paragraphs 0002 and 0003). The present invention is not concerned with data-usage based billing of Internet users. Tassel discloses creating a tariff for network usage (Tassel, paragraphs 0004-0014). The present invention is related to the implementation of hardware-based telephony metering in a packet network and is not directed to network usage. In Tassel, the tariff is distributed to the user terminals as a binary file such as a Java bytecode and further distributed to a network accounting server (Tassel, paragraphs 0004-0014). The present invention does not distribute tariffs to a user terminal or a network accounting server and does not distribute tariffs in files of any kind.

Moreover, the present invention does not require a user terminal, or any hardware-based metering aware terminal.

Roberts is directed to a method of charging a consumer in real time for goods or services associated with the transport of packet traffic based upon the data inside individual packets (Roberts, Abstract and paragraph 0012). The present invention is not related to such real-time billing and is not related to packet analysis based tariffing. The present invention describes how to provide metering information for transmittal in a packet network by using a media control protocol in order to realize an implementation of hardware-based metering between a gateway and a metering entity. The present invention is not directed to assessing network usage or to data-based metering, as are Tassel and Roberts. Thus, Tassel and Roberts are inapplicable to the present invention and not surprisingly, the combination of Tassel and Roberts does not teach or suggest each and every limitation of the claimed invention.

Claim 1 recites a method for providing metering from a gateway in a packet network comprising:

- a) receiving a message at the gateway, the message being sent using a media control protocol, and the message comprising a complete call tariff model for controlling all metering in association with a call; and
- b) providing pulses to a metering entity during the call according to the call tariff model.

The combination of Tassel and Roberts does not teach each and every element of claim 1. Tassel discloses that a tariff code is created by the network management platform 40 and is multicast to all user terminals 5 in communication with a network (Tassel, paragraphs 0021-0023). The Patent Office is reading the router 7 of Tassel as the claimed gateway and the multicast using IP as the claimed media gateway protocol (Final Office Action mailed March 25, 2008, p. 2). Applicant respectfully disagrees.

The router 7 of Tassel cannot be the claimed gateway. The router 7 of Tassel is merely an access router that provides a point of access between the customer terminal 5 and a subdomain 2A of the communications network (Tassel, paragraph 0019). There is no indication in Tassel that the router 7 receives a message sent using a media control protocol, wherein the message comprises a complete call tariff for controlling all metering in association with a call. In fact, there is no mention of any sort of message being received by the router 7 of Tassel.

Since the router 7 of Tassel does not receive any message, much less a message sent using a media control protocol or a message comprising a complete call tariff for controlling all metering in association with a call, Tassel does not teach or suggest the element for which it is cited. Thus, Tassel does not teach or suggest “receiving a message at the gateway, the message being sent using a media control protocol, and the message comprising a complete call tariff model for controlling all metering in association with a call,” as recited in claim 1.

In addition, the sending of the tariff code to the user terminals using IP multicast channels is not equivalent to the sending a message to the gateway using a media gateway protocol, as claimed in the present invention. The fact that IP channels are used in Tassel does not mean that a media gateway protocol is used (see Specification, paragraph 0043, discussing messages sent using media control protocol and giving H.248 and Session Initiation Protocol as two non-limiting examples). In fact, the router in Tassel is not a media gateway, so no media control protocol would be necessary in Tassel. Tassel does not teach or suggest sending a message comprising a complete call tariff model by using a media control protocol. The router 7 in Tassel is principally a passive element that forwards IP packets from one IP sub-domain to another. In contrast, the claimed gateway of the present invention receives a message sent using a media control protocol and takes the call tariff model in the received message and transforms it into electrical impulses to be provided to the metering entity. The router 7 in Tassel does not receive a message sent using a media control protocol and does not provide pulses to a metering entity according to the call tariff model, as the claimed gateway does. Thus, the router cannot be the claimed gateway.

Moreover, Tassel does not disclose or suggest “receiving a message at the gateway, the message being sent using a media control protocol, and the message comprising a complete call tariff model for controlling all metering in association with a call,” as recited in claim 1 because Tassel does not disclose a message comprising a complete call tariff model for controlling all metering in association with a call. Tassel does disclose that a tariff code is created by the network management platform 40 and is multicast to all user terminals 5 in communication with a network (Tassel, paragraphs 0021-0023). However, the tariff code of Tassel is not a complete call tariff model for controlling all metering in association with a call. It is merely a code. In fact, Tassel is clear that the creation of a tariff is not an aspect of the invention described in Tassel (see Tassel, paragraph 0021).

The Patent Office notes that the user terminal in Tassel transforms the tariff code into a set of rules (Final Office Action mailed March 25, 2008, p. 2). Tassel does disclose that a tariff translator transforms the code into a set of rules that can be used to configure a meter that measures the number and type of packets received and transmitted by the terminals (Tassel, paragraph 0023). But the tariff translator is in the user terminal. Thus, the rules are generated by the user terminal in Tassel. In contrast, in the present invention, the complete call tariff model is sent in a message to the gateway and then the gateway provides pulses to a metering entity during the call according to the complete call tariff model. Since Tassel only discloses sending a code to the user terminal and then generating rules at the terminal (as opposed to at the gateway), there is no message sent in Tassel that comprises a complete call tariff model that is received by the gateway and used by the gateway to provide metering pulses. Accordingly, Tassel does not teach or suggest “receiving a message at the gateway, the message being sent using a media control protocol, and **the message comprising a complete call tariff model for controlling all metering in association with a call,**” as recited in claim 1.

The Patent Office admits that Tassel does not teach or suggest “that the gateway receives the complete tariff and forwards the tariff,” but alleges that Roberts “teaches that gateway GGSN receives the tariff information and forwards the information to the user.” (Final Office Action mailed March 25, 2008, p. 3). Applicant initially notes that the Patent Office has misread the claim language. Claim 1 does not recite “that the gateway receives the complete tariff and forwards the tariff,” but instead recites the steps of “receiving a message at the gateway, the message being sent using a media control protocol, and the message comprising a complete call tariff model for controlling all metering in association with a call,” and “providing pulses from the gateway to a metering entity during the call according to the call tariff model.” Neither Tassel nor Roberts teaches or suggests the claimed steps because the combination of Tassel and Roberts fails to teach or suggest a gateway that receives a message sent using a media control protocol, wherein the message comprises a complete call tariff model for controlling all metering in association with a call, and where the gateway then provides pulses to a metering entity during the call according to the call tariff model, as claimed in the present invention. In particular, neither Tassel nor Roberts discloses or suggests a gateway that provides pulses to a metering entity during the call according to the received call tariff model.

The Patent Office admits that Tassel does not teach or suggest such a gateway. Roberts also does not teach or suggest a gateway that provides pulses to a metering entity during the call according to the call tariff model. As an initial matter, Applicant does not see where Roberts discloses that the GGSN receives the tariff information and forwards it to the user, as alleged by the Patent Office. Paragraphs 0028 and 0029 of Roberts that were cited by the Patent Office do not indicate that tariff information is received by the GGSN and forwarded to the user. Roberts merely discloses that the GGSN includes a packet analyzer used to handle the usage aspects of the tariff regime (Roberts, paragraph 0028). In any event, there is no mention of the GGSN in Roberts providing pulses to a metering entity during the call according to the call tariff model received at the gateway. In fact, there is no teaching in Roberts that the GGSN receives a message comprising a complete call tariff model. As with the router 7 in Tassel, the GGSN in Roberts cannot be the claimed gateway because the GGSN in Roberts does not receive a message sent using a media control protocol. The GGSN in Roberts is not a media gateway, so no media control protocol would be necessary or used in Roberts. Thus, the GGSN in Roberts cannot be the claimed gateway because it does not receive a message sent using a media control protocol where the message comprises a complete call tariff model that is used by the gateway to provide pulses to a metering entity during the call.

For the above reasons, the combination of Tassel and Roberts does not teach each and every limitation of claim 1. In addition, the Patent Office seems to place emphasis on its statement that it would be obvious to combine Tassel and Roberts in order to give the gateway the additional functionality of forwarding the metering information and that the function of metering is well known in the art and would yield the same results whether it is implemented in the gateway or the user terminal (Final Office Action mailed March 25, 2008, p. 3). Applicant believes that this statement shows the Patent Office's misunderstanding of the present invention and the cited references. Metering cannot occur in the user terminal. In the present invention, the complete call tariff model is sent to the gateway using a media control protocol, and the gateway generates pulses, which are sent to the metering entity. The metering pulses cannot be sent from a user terminal because there would be no way to adequately protect the terminal from tampering. Likewise, the GGSN in Roberts cannot "forward the metering information" to the user terminal. If Roberts and Tassel were combined, perhaps the tariff information could be used by the user terminal to provide an approximation of the potential charges from the call, but no

actual charging or tariffing would occur in the user terminal, and no pulses would be sent from the gateway to a metering entity during the call. Thus, the combination of Roberts and Tassel does not teach or suggest receiving a message sent using a media control protocol that comprises a complete call tariff model for controlling all metering in association with a call at the gateway, where the gateway then provides pulses to a metering entity during the call according to the call tariff model, as claimed in the present invention.

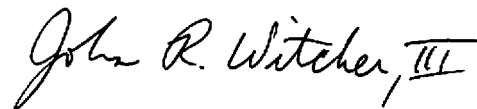
Claim 21 is a system claim that contains limitations similar to those in claim 1. Thus, for at least the same reasons as set forth above with respect to claim 1, the combination of Tassel and Roberts does not teach each and every element of claim 21. Claim 21 is therefore patentable.

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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